

ONE CALL CONTRACT

11-2610-002

CONSULTING CONTRACT

This AGREEMENT is made and entered into this 27th day of July, 2010, by and between, the South Dakota One Call Notification Board, a state agency, of 500 East Capitol Avenue, Pierre, South Dakota 57501, hereinafter referred to as "Board," and Larry Englerth, of 10514 W Yukon Drive, Peoria, AZ 85382, hereinafter referred to as "Consultant."

Consultant's Employer Identification Number is
Identification Number is 51-001-00012093T-ST-001.

Consultant's State Tax

The Board hereby enters into this Agreement for services with Consultant in consideration of and pursuant to the terms and conditions set forth herein.

1. Consultant agrees to perform those services described in Exhibit A and by this reference incorporated herein.
2. Consultant's services under this agreement shall commence on August 1, 2010, and end on December 31, 2010 unless sooner terminated pursuant to the terms hereof.
3. Consultant shall provide all administrative support equipment and supplies with the exception of those costs that are directly and solely related to the functions identified in Exhibit A.
4. Travel, may be necessary to carry out services in Exhibit A. Travel shall, however, only take place after approval from an officer of the Board.
5. The Board will make payments for services upon satisfactory completion of the services on a monthly basis.
6. Consultant agrees to indemnify and hold the state of South Dakota, its officers, agents and employees harmless from and against any and all actions, suits, damages, liability or other proceedings that may arise as a result of performing services hereunder. This section does not require the Consultant to be responsible for or defend against claims or damages arising solely from errors and omissions of the state, its officers, agents or employees.
7. Consultant, at all times during the term of this Agreement, shall obtain and maintain in force insurance coverage of the types and with the limits as follows:

a. Commercial General Liability Insurance

Consultant shall maintain occurrence based commercial liability insurance or equivalent form with a limit of not less than \$1,000,000 for each occurrence. If such insurance contains a general aggregate limit it shall apply separately to this Agreement or be less than two times the occurrence limit. Such insurance shall include the South Dakota One Call Notification Board as an additional insured in the event of a claim, lawsuit or other proceedings filed against the South Dakota

One Call Notification Board as a result of the services provided pursuant to this agreement.

b. Business Automobile Liability Insurance

Consultant shall maintain business automobile liability insurance or equivalent form with a limit of not less than \$100,000 for each accident. Such insurance shall include coverage for owned, hired and non-owned vehicles.

Before beginning work under this Agreement, the Consultant shall furnish the Board with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Agreement and which provide that such insurance may not be canceled, except on 30 days' prior written notice to the Board. The Consultant shall furnish copies of insurance policies if requested by the Board. The Board will reimburse the Consultant for the cost of required insurance policies.

8. While performing services hereunder, the Consultant is an independent contractor and not an officer, agent, or employee of the state of South Dakota.
9. This Agreement may be terminated by either party hereto upon ten (10) days' written notice. In the event the Consultant breaches any of the terms or conditions hereof, this Agreement may be terminated by the Board at any time with or without notice. If termination for such a default is effected by the Board, any payments due to Consultant at the time of termination may be adjusted to cover any additional costs to the Board because of Consultant's default. Upon termination, the Board may take over the work under this Agreement. If after the Board terminates for a default by Consultant it is determined that the Consultant was not at fault, then the Consultant shall be paid for eligible services rendered and expenses incurred up to the date of termination.
10. This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this Agreement will be terminated by the Board. Termination for any of these reasons is not a default by the Board nor does it give rise to a claim against the Board.
11. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.
12. This Agreement shall be governed by and construed in accordance with the laws of the state of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.
13. The Consultant will comply with all federal, state and local laws, regulations, ordinances, guidelines, permits and requirements applicable to providing services pursuant to this Agreement, and will be solely responsible for obtaining current information on such requirements.
14. Any notice or other communication required under this Agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to the Chairman of the

Board on behalf of the Board, and by and to Larry Englerth, on behalf of the Consultant, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.

15. In the event that any provision of this Agreement shall be held unenforceable or invalid by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

16. All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.

In Witness Whereof, the parties signify their agreement effective the date above first written by the signatures affixed below.

BOARD

BY: Kurt Pfeifle, Vice-Chairman
Bleau LaFave, Chairman
South Dakota One Call Notification Board

Dated this 26 day of July, 2010

CONSULTANT

BY: Larry Englerth
Consultant

Dated this 27 day of July, 2010


EXHIBIT A

Consultant agrees to provide training and support to the Executive Director in carrying out the administrative services of the South Dakota One Call Notification Board as listed below. Support may be provided via email, telephone or face-to-face as determined by the parties involved. Board may request the Consultant to be present at Rules Hearings, Legislative Conferences or other functions as warrants.

1. Manage the day-to-day operations of the South Dakota One Call Notification Board to include the timely processing and coordination of the enforcement process.
2. Monitor the one call service vendor contract for compliance with the contract's provisions.
 - a. Drafting contract language.
 - b. Understanding technological advances in the industry and insuring that the vendor is implementing appropriate technologies.
 - c. Obtaining member and excavator input on the one call process and working with the vendor to improve the service provided.
3. Analyze and monitor the financial statements and position of the South Dakota One Call Notification Board.
4. Prepare an annual plan for South Dakota One Call that includes financial and operational items to be completed during the next fiscal year.
5. Research regulations and statutes in other states and determine their effectiveness and application to the South Dakota One Call System.
 - a. Draft legislative or administrative rules for consideration by the Board.
 - b. Identify and coordinate lobbying efforts on the state level.
6. Understand the legislative and administrative rules.
7. Research grant opportunities and prepare grant requests when appropriate along with tracking grant expenditures and filing final grant reports.
8. Monitor and process legal complaints received by the South Dakota One Call Notification Board.
9. Develop and prepare agenda and board meeting materials.
10. Attend meetings of the South Dakota One Call Notification Board.
11. Recommend and implement board policies for the South Dakota One Call Notification Board.
12. Research, analyze, draft, and present to the Board long and short range operational plans.
13. Recommend and implement education and marketing programs.
14. Represent the Board at industry meetings and events on a regional and national level.
15. Attend member and excavator meetings and conferences on behalf of the South Dakota One Call Notification Board.
16. Prior to September 1st of each year, prepare an annual report describing financial and operational aspects of South Dakota One Call for the previous fiscal year.
17. Research one call service vendor alternatives and coordinate the implementation process with the Board and the Executive Director.
18. Other duties as assigned by the Board.

Signatures:

By:


Kurt Pfeiffer
Vice-Chairman of the Board
South Dakota One Call Notification Board

By:


Larry Englerth
Consultant

Dated this 26 day of July, 2010

Dated this 27th day of July, 2010

EXHIBIT B

Compensation for Services Rendered in Exhibit A

\$ 1,500 paid monthly not to exceed an annual limit of \$7,500.

Reimbursement for Personal Expenses Associated with Services Rendered in Exhibit A

Transportation – Mileage shall be reimbursed at the rates set forth by the Internal Revenue Service. If automobile travel is used in lieu of airline transportation, the reimbursement shall be the lower of the mileage or the airline ticket price. Expenses associated with commercial transportation (airline or rental car) shall be reimbursed at the actual rate of the expense.

Lodging – Lodging shall be reimbursed at the actual costs. When lodging is purchased for other individuals, the name of the person and the business purpose of the meeting should be identified on the reimbursement request.

Meals – Meals shall be reimbursed at the actual costs. When meals are purchased for other individuals, the name of the person and the business purpose of the meeting should be identified on the reimbursement request.

All requests for reimbursement shall include an original receipt and an explanation of the purpose of the function.

All requests for reimbursement shall be preapproved by an officer of the Board.

Maximum Annual Value of this contract is \$15,000.

Exhibit B is effective from August 1, 2010 through Dec 31, 2010.

BOARD

BY:


Brian LaFave, Chairman
South Dakota One Call Notification Board

CONSULTANT

BY:


Larry Englerth
Englerth Consulting
Consultant

Dated this 26 day of July, 2010

Dated this 20th day of July, 2010

